

EXHIBIT 1

INTRODUCTION

Respondent Frederick Kosmo is a member of the California Apple Commission (the “Commission”). He assumed office on July 1, 2001. As a member of the Commission, Respondent is a designated employee of the Commission, as defined in Section 82019, subdivision (c) of the Political Reform Act (the “Act”),¹ and in the Commission’s conflict of interest code.

Under the Commission’s conflict of interest code, each designated employee of the Commission is required to file a statement of economic interests within 30 days of assuming office. On the assuming office statement of economic interests, the designated employee must disclose the reportable economic interests that he or she held during the 12 months prior to assuming office.

In this matter, Respondent failed to file an assuming office statement of economic interests by the July 31, 2001 due date.

For the purposes of this Stipulation, Respondent’s violation is stated as follows:

As a designated employee of the California Apple Commission, Frederick Kosmo failed to file an assuming office statement of economic interests by July 31, 2001, in violation of Section 87300 of the Government Code.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be identified.

In furtherance of this purpose, Section 87300 requires every agency to adopt and promulgate a conflict of interest code. Section 87302, subdivision (a) provides that an agency’s conflict of interest code must specifically designate the employees of the agency who are required to file statements of economic interests disclosing their reportable investments, business positions, interests in real property, and sources of income. Under Section 82019, subdivision (c), and Section 87302, subdivision (a), the individuals who are to be designated in an agency’s conflict of interest code are the officers, employees, members, and consultants of the agency, whose position with the agency

entails making, or participating in making, governmental decisions that may have a reasonably foreseeable material effect on one or more of the individual’s economic interests.

¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Section 87302, subdivision (b) provides that an agency's conflict of interest code must require every new designated employee to file a statement of economic interests within 30 days of assuming office, disclosing investments, business positions, and interests in real property held on, and income received during the 12 months before, the date of assuming office.

Under the provisions of the Commission's conflict of interest code, each designated employee of the Commission must file his or her assuming office statement of economic interests with the Commission, which shall retain a copy of the statement and forward the original to the Fair Political Practices Commission (the "FPPC"), which has been designated in the Commission's conflict of interest code, as the filing officer for the Commission.

Under Section 87300, the requirements of an agency's conflict of interest code have the force of law, and any violation of those requirements is deemed a violation of the Act.

SUMMARY OF THE FACTS

Respondent Frederick Kosmo assumed office as a member of the Commission on July 1, 2001. As a member of the Commission, Respondent is a designated employee of the Commission, and was therefore required to file an assuming office statement of economic interests by July 31, 2001.

Respondent failed to file an assuming office statement of economic interests by the July 31, 2001 due date, in violation of Section 87300.

On November 28, 2001, Marcy Martin, filing official for the Apple Commission, sent a letter to Respondent informing him of his requirement to file a statement of economic interests within 30 days of assuming office on July 1, 2001, and asking him to file the now already overdue statement immediately.

When Respondent did not file the assuming office statement as requested, on January 4, 2002, Emily Bowden of the SEI unit of the FPPC sent a letter to Respondent, reminding him that his assuming office statement of economic interests, that was due by July 31, 2001, had not been received, and asking him to file the statement by February 3, 2002.

When Respondent did not file the overdue statement in response to the second letter, on February 6, 2002, Ms. Bowden sent a second letter to Respondent, informing him that his assuming office statement of economic interests, that was due on July 31, 2001, still had not been received. The letter further advised Respondent that his failure to file the statement would be referred to the Enforcement Division of the FPPC, if the delinquent statement was not received by February 16, 2002. In spite of these notices, Respondent still failed to file an assuming office statement of economic interests, and the matter was then referred to the Enforcement Division.

On April 30, 2002, SEI Coordinator Mary Ann Kvasager of the Enforcement Division contacted Respondent by telephone, reminding him that his assuming office statement of economic interests was past due, and telling him to file the statement immediately.

Respondent filed his assuming office statement of economic interests on July 18, 2002, nearly one year after the due date.

CONCLUSION

This matter consists of one count of violating Section 87300, which carries a maximum administrative penalty of Five Thousand Dollars (\$5,000). Under the SEI Expedited Procedures adopted by the Commission in July 1999, the approved administrative penalty for an individual who files a delinquent statement of economic interests within 30 days of being contacted by an Enforcement Division investigator, and agrees to an early resolution of the matter, is between Two Hundred and Three Hundred Dollars (\$200-\$300). However, in this matter, Respondent did not file his delinquent assuming office statement of economic interests within 30 days of being contacted by the Enforcement Division investigator, and he declined to reach an early resolution of the matter as specified under the SEI Expedited Procedures. Accordingly, the matter is being resolved outside of that program.

The administrative penalty for statement of economic interests filing violations resolved outside the SEI Expedited Procedures has historically been established on a case-by-case basis, depending on the specific mix of aggravating and mitigating factors present. As Respondent filed his delinquent assuming office statement more than two months after being contacted by the Enforcement Division investigator, and did not agree to resolve the case until after an accusation had been issued, an administrative penalty of Six Hundred Dollars (\$600), double the penalty imposed under the expedited program, is justified.